

JEFF J. HANCOCK
#8 KINGS WAY
AVENAL, CA. 93204
PRO SE

FILED
FEB - 6 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JEFF J. HANCOCK

Petitioner

JAMES D. HARTLEY, ACTING WARDEN

Respondent

C67-04469 CW

[HABEAS CORPUS;

28 U.S.C. § 2254]

FEDERAL RULE OF CIVIL

PROCEDURE 34(C) MOTION

Petitioner requests the court to compel non-parties to produce documents and tangible things to inspect, copy, test or sample.

Non-party #1 Santa Clara County Office of the District Attorney, Sunnyvale Facility, 333 West El Camino Real, Sunnyvale, CA. 94087 408-735-0981

Items- Trial Exhibit 26 - Interrogation Tape

Trial Exhibit 27A Transcript of Unedited Tape (Exhibit 26)

Both items are from case number- EE302496

Non-party #2 Defense Trial counsel Eben Kurtzman, 1131 Park Avenue, San Jose, CA. 95126 408-295-2105

Item- Case Summary as provided to him by petitioners previous attorney's representative (as he, Dave Hardin, was hospitalized)

Petitioner believes that the trial exhibits and case summary will ~~provide~~ will help to provide him with a full and fair hearing and determination of the case. Penal code §1484

Petitioner believes that the above items will establish that petitioner's claim is clearly meritorious and that relief can be granted without a hearing.

Petitioner has made multiple attempts at discovery of the above items in the past three months, and had no luck. Petitioner requests the above items be submitted to the court on or before 4/15/08.

I, Jeff J. Hancock declare under the penalty of perjury that the foregoing is true and correct. Executed at Avenal State Prison, Avenal, CA. 93204

I the undersigned, certify that I am over the age of (18) years of age. That I caused to be served a copy of the following document entitled:

Motion to Compel Discovery
Federal Rule of Civil Procedure 34(c)

By placing the same in an envelope, sealing it before a correctional officer, signing an outgoing legal mail log (ASP-152), handing it to the same officer through my locked cell door for depositing in the United States Mail at Avenal State Prison and addressed to the following:

William Kuimelis
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA. 94102-7004

Executed on February 3rd at Avenal State Prison,
Avenal, California.

I Jeff Hancock declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Jeff Hancock
Jeff Hancock
V-49474

District Court,

2/3/08

I'm currently housed at Arsenal State Prison in Administrative Segregation and I have not had access to a copier for over a week. The 12 attachments I've sent along with the motion I was unable to send to the Attorney General. I sent the motion, declaration and proof of service but no attachments. The attachments I've sent you are my only copies. If you can send them back when you've finished with them I'd greatly appreciate it.

Thank You

V-49474

Jeff Hancock
#8 Kings Way
Arsenal, CA 93204

Concerning my request for Exhibit 27A
(Unedited Transcript)

Superior Court of California
County of Santa Clara

PALO ALTO COURTHOUSE
270 Grant Avenue
Palo Alto, California 94306
(650) 462-3800

November 16, 2007



Hello Sandy,

I am responding to you regarding the attached request from defendant Jeff HANCOCK for an unedited transcript from his case file EE302496. The defendant is naming the unedited transcript Exhibit 27A.

In order for you to have a better picture of what has transpired between defendant HANCOCK and the Palo Alto Clerk's office, I have included copies of correspondence from the defendant, the court's response to defendant's request, and documents from the case file that may or may not explain the reason there is no Exhibit 27A.

I hope the attached copies help resolve some of the confusion. Please let me know if I can be of any further assistance.

Peg

Peg Bradford
Legal Process Clerk
Palo Alto Courthouse

Attachments

? All the documents show is that the Judge possessed Exhibit 27A during my trial and that D.A. Jim Demertzis gave it to him deliberately. See RT 280 lns 8-10 and lns 20, 21

Superior Court of California
County of Santa Clara

191 North First Street
San Jose, California 95113
(408) 882-2700

November 20, 2007

KIRI TORRE
Chief Executive Officer

COURT SUPPORT SERVICES DIVISION



Jeff Hancock, V49474140-1-11L
#8 Kings Way
Avenal, CA 93204

Re: People vs. Hancock
Case No.: EE302496

Dear Mr. Hancock:

I am writing to you in response to your request dated 10/30/07, requesting a copy of Exhibit 27A. After further review, it seems Exhibit 27A does not exist. Please see attached letter from Peg Bradford, Exhibit Clerk at the Palo Alto Courthouse, dated 11/16/07.

I am sorry for the confusion, I encourage you to contact your attorney of record to assist you in obtaining the documents you may want or need for your case.

If I can assist you in obtaining a transcript from one of our court reporters, please do not hesitate to have your attorney of record call me at (408) 882-2515.

Thank you,

Sandra Salazar
Deputy Court Manager
Court Reporters Unit

11/27/07
Hi,
I'm Jeff Hancock. If there are any forms, etc., that I need to fill out to help expedite acquiring Exhibit 27A I'm more than willing to fill them out.
Thank You Jeff Hancock

I can't contact my attorney of record because a major part of my pending appeal alleges his ineffectiveness as my counsel.
Exhibit 27A existed during my trial, the Judge said so? How did it disappear?
Sandra Salazar Can another one be made from the tape?
Thanks for your help

In mid-late December the Attorney General will be filing a response. I'll only have 30 days to file mine from that date.
Someone told me that the D.A.'s office may have the transcript 27A. The tape was Exhibit 26. My case hinged LARGELY on that tape! Night and Day
n. Lawrence

Request For Exhibit 27 At Transcription Exhibit 26 (Tape)
12/14/07

Superior Court File, Case No. EE302496

Hello Ms. Gomez,

I just received your response letter of 12/7/07. You stated, "It is obvious to me now that the marked exhibit, People's 27, was replaced with a copy of the edited version of the tape and no other version was marked." RT Vol III pg. 280 lns. 9, 10 Honorable Judge John Garibaldi states that Mr. Demertzis (my trial prosecutor) gave him "a transcript of the complete original tape."

I realize it was shortly thereafter replaced. What I'm asking is, where did the transcript of the complete original tape go?

Does the Sunnyvale District Attorney have it? Does another complete original, unedited version need to be made?

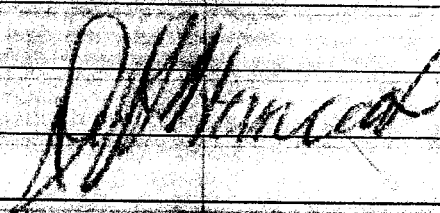
Do I need to get the tape in order to show the federal judge its entirety?

Please write me back. The Attorney General is set to respond to the OSC in the last week of December 2007.

Thank you for your help.

Have a Merry Christmas

Take Care



Case Summary Request From Dave Hardin
by previous attorney

LAW OFFICE OF LINDY M. FARIS

September 27, 2007

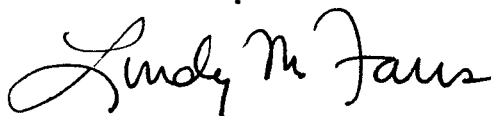
Jeff Hancock
#8 Kings Way
Avenal, CA 93204

RE: letter

Dear Mr. Hancock:

I received your letter. I made some special appearances for Dave Hardin while he was sick, but I never substituted in for Mr. Hardin. He was your attorney of record until a new attorney substituted in, and I do not know who took over the case. I have no access to your file and have no idea what was done with Mr. Hardin's files after he passed away. You should contact your attorney of record who represented you on the case after Mr. Hardin. Good luck on your appeal.

Best regards,



Lindy M. Faris
Attorney at Law

Request of Case Summary given to
Eben Kurtzman from previous attorney
Dave Hardin

12/12/07

Hello Mr. Kurtzman,

Happy Holidays. I'm currently
in federal court appealing my
conviction from 2004 in Minnesota
Superior Court in which you
represented me. Case #EE302496
I'm requesting the Case Summary
that was turned over to you from
Attorney Dave Hardin after you
became attorney of record prior
to my trial in April 2004.
I believe the Case Summary/File
will be a major help in me having
a full and fair hearing.
Thanks for your consideration and
time. Merry Christmas! *[Signature]*

Case 4:07-cr-04469-CW Document 14 Filed 02/06/2008 Page 2 of 15
Request of Case Summary given to Eban Kurtzman by/
from petitioners previous attorney Dave Hardin

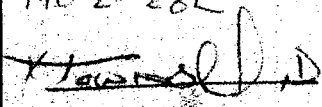
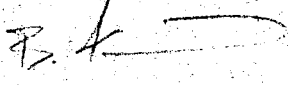
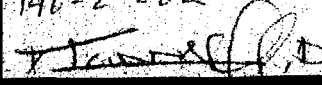
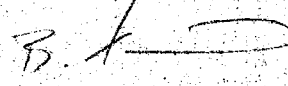


Hello Mr. Kurtzman,

1/18/08

I am currently in federal court appealing
a conviction from 2004 in Sunnyvale Court
in which you represented me. My previous
attorney became ill and you became attorney
of record in April of 2004. I'd like to obtain
a copy of the case summary that was
given to you by my previous attorney of
record through his representative.
I believe this will be a major help in me
having a full and fair hearing before
the court. My mom retained you for me.
Her name is Peggy Smith, 540-956-0882.
You can contact her anytime if there
are problems. Thanks for your time.

Pipp Hancock

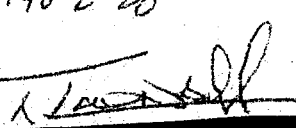
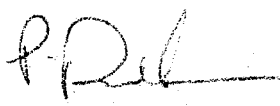
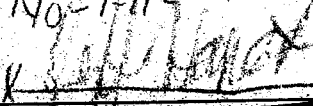
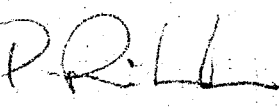

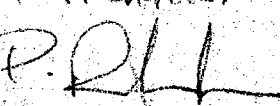
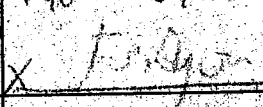
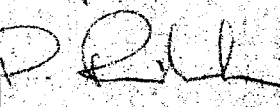
AVENAL STATE PRISON
OUTGOING LEGAL / CONFIDENTIAL MAIL LOG
HOUSING UNIT # 140

DATE	ADDRESS SENT TO	INMATE CDC# HOUSING UNIT SIGNATURE	STAFF PROCESSING MAIL Print and Sign Name	1 st WATCH CONFIRMATION Print and Sign Name
12-11-07	OFFICE OF INTERNAL AFFAIRS P.O. Box 3009 SACRAMENTO CA. 95812	TOWNSTILL E-43344 140-2-28L 	cl E. FARRIS B. 	
12-11-07	A.S.P. APPEALS COORDINATOR #1 KINGS WAY AUBURN CA. 93204	TOWNSTILL E-43344 140-2-28L 	cl B. FARRIS B. 	
12/16/07	Office of the District Attorney 333 W. Jefferson Blvd. Suite 230 San Jose CA 95128 Attn: [illegible]	Jess Hancock V-44470 140-1-112 	P. [illegible] 	

All Mail is to be processed in accordance with CCR Title 15 sections 3141 and 3142.

With the exception of Inmate's Signature, entire form must be completed by Staff. Reference O.P. 9

AVENAL STATE PRISON
OUTGOING LEGAL / CONFIDENTIAL MAIL LOG
HOUSING UNIT # 140

DATE	ADDRESS SENT TO	INMATE CDC# HOUSING UNIT SIGNATURE	STAFF PROCESSING MAIL Print and Sign Name	1 st WATCH CONFIRMATION Print and Sign Name
12/12/07	ATTN: MATTHEW GOATS Inspector General P.O. Box 348780 Sacramento, CA 95834	D-Townsell E 43344 140-2-284 	P. Richardson 	
12/12/07	ATTORNEY AT LAW EBEN L. Kurtzman 1131 Park Ave. San Jose, CA 95126	J. Hancock V 49474 140-1-114 	P. Richardson 	
12/12/07	The Clerk of the Court U.S. District Court E. District of CALIF. 2500 Tulare St. Suite 1501 Fresno, CA 93721	C. Fordjour V 28028 140-1-094 	P. Richardson 	
	Victoria E. Manor, Clerk Office of the Clerk U.S. District Court E. District of CA 2500 Tulare St. Suite 1501 Fresno, CA 93721	C. Fordjour V 28028 140-1-094 	P. Richardson 	

All Mail is to be processed in accordance with CCR Title 15 sections 3141 and 3142.
 With the exception of Inmate's Signature, entire form must be completed by Staff. Reference O.P. 9

Request for:
Interrogation Tape (Exhibit 26)
Unedited Transcript of Tape (Exhibit 27A)
the Index of Exhibits
T280

Transcript of Exhibits
Dear Clerk,

Dear Clerk,

During my trial in Sunnyvale Superior, Dept. 81, Judge John Garibaldi was given a Transcript (Exhibit 27A) of the updated version of Exhibit 26 (The Tapes) (Exhibit's Page)

See Index of Exhibits Page)
I'm currently incarcerated I'm
indigent and have a pending case
in federal court challenging my
conviction above. Can I please
have a copy of Exhibit 27A in
order to pursue my pending case
Thanks for your time,

Calif. Rules of Court
33(a) and 35(b)
In re Henderson
61 Cal. 2d 541 (1964)

Jeff Hancock
19476

V-49474

Avera State Prison
140-1-11L

#311563 (977)

Request for:
Interrogation Tape (Exhibit 26)
unredacted Transcript of Tape
(Exhibit 27A)

12/11/07

See Index of Exhibits
+ AT 280

Sunnyvale District Attorney

I am challenging my conviction from 1974 in Sunnyvale Superior Court Case # E-3025 in federal court. I am requesting production of Exhibits 26 & 27A. (The unredacted transcript of the interrogation tape, Exhibit 26). I believe it is reasonably likely that these exhibits will lead to the discovery of admissible evidence, confirm my trial testimony, and obviate the need for an evidentiary hearing. I've sent R.T. Vol. III p. 280 to indicate when Deputy District Attorney James Demerzis gave my trial judge Honorable John Garibaldi Exhibit 27A. He then stated, (in 21) "It was it on ours, it's in appeals." I am sure he never received Exhibit 27A. If my being incarcerated creates a problem sending Exhibit 26 (the tape), then I authorize and request that it be sent to United States District Judge Claudia Wilken, Northern District of California, 1301 Clay Street, Suite 4005, Oakland, CA 94612-5212. I believe these Exhibits are required for a full and fair hearing. Federal Case name Harcock case # 07-04469.

Northern District Nick Dawson (A) warden CW(PR)

I Jeff Harcock consent to this release of Exhibits on 12/11/07 by Sunnyvale District Attorney's to Honorable Judge Claudia Wilken, United States District Judge for the Northern District of California, 1301 Clay Street, Suite 4005, Oakland, CA 94612-5212. For inspection. Thanks for your consideration. Jeff Harcock

May 20th 2003

Document 14

Filed 02/06/2008

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RT Vol. III

Sunnyvale Court Superior Dept. 81
Judge John Garibaldi

also see: RT Vol. III pg. 280
for Judge Garibaldi's
Statement

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Can I please have this page back?

THIS transcript was reviewed during trial, Exhibit 27A

I need 27A please.

*
I need
my lawyer
or myself
here over
with a
copy.

Dep't. 81
May 2008
Vol III

Judge
Saribaldini
during
my
trial

D.A.
Jim
Demertzis

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DOES INCLUDE THE ENTIRE CONTENTS OF THE TAPE AS PROVIDED BY THE POLICE DEPARTMENT TO THE D.A., AND THAT TAPE WAS THE ONE THAT WAS GIVEN PURSUANT TO NORMAL DISCOVERY TO MR. KURTZMAN.

BUT THE RECORD SHOULD REFLECT THAT THE TAPE THAT THE JURY HAS HEARD HAS BEEN EDITED TO IN ESSENCE DELETE MUCH OF THE -- ALL OF THE LAST PART OF THE INTERVIEW, WHICH IS ABOUT FIVE PAGES LONG. THE TRANSCRIPT THAT WAS GIVEN TO THE JURY SHOWS WORD FOR WORD THE EDITED TAPE HERE. AND I WAS GIVEN BY MR. DEMERTZIS, AND I'M SURE IT WAS JUST AN OVERSIGHT, I WAS GIVEN A TRANSCRIPT OF THE COMPLETE ORIGINAL TAPE.

IN ORDER FOR PEOPLE'S 27 TO CONFORM WITH WHAT THE JURY HAS BEEN GIVEN AND WHAT THE TAPE TELLS THIS JURY WAS EDITED, WHAT THE ATTORNEYS HAVE AGREED TO DO IS TO SUBSTITUTE AS PEOPLE'S 27 THE TAPE THAT EVERYONE ELSE HAS -- THE TRANSCRIPT THAT EVERYONE ELSE HAS, INCLUDING THE JURY. THAT TRANSCRIPT IS IN FACT 43 PAGES LONG AND IS A TRUE AND ACCURATE -- AS BEST AS WE CAN DETERMINE, A TRUE AND ACCURATE RENDITION WHAT THE EDITED TAPE TRANSCRIPTS ARE. IS THAT CORRECT? HAVE I SAID ANYTHING WRONG?

MR. DEMERTZIS: NO, YOUR HONOR, OTHER THAN THE COMPLETE TRANSCRIPT I GAVE YOU, IT WASN'T AN OVERSIGHT. I THOUGHT THAT'S WHAT THE COURT CALLED FOR.

THE COURT: NO. IT WAS JUST A MISCOMMUNICATION THEN. ALL I WANTED WAS A TRANSCRIPT OF THE EDITED VERSION OF THE TAPE.

MR. DEMERTZIS: THAT'S WHAT I'VE NOW GIVEN YOU, THE SAME TRANSCRIPT THE JURY HAS, AND IT'S A TRANSCRIPT OF THAT PORTION OF THE TAPE THAT THE JURY LISTENED TO.

Can't take out the tape as back